



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,265	08/23/2006	Masaki Nakakado	YMMRP0109US	2067

43076 7590 03/09/2010
MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEVELAND, OH 44115-2191

EXAMINER

CAILLOUET, CHRISTOPHER C

ART UNIT	PAPER NUMBER
----------	--------------

1791

MAIL DATE	DELIVERY MODE
-----------	---------------

03/09/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,265	Applicant(s) NAKAKADO ET AL.	
	Examiner CHRISTOPHER C. CAILLOUET	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/14/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Amendment filed December 14, 2009 has been entered. Claims 1 and 4-6 have been amended. Claims 2 and 3 were cancelled and claims 7-9 were added.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Applicant's amendment to claim 1, incorporating the limitations of now cancelled claims 2 and 3, have rendered the previous 102(b) rejection of claim 1 moot. Thus, the previous 102(b) rejection of claim 1 has been withdrawn.

Claim Rejections - 35 USC § 103

4. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayden et al. (US 5407513) in view of McCabe (US 6596108).

Hayden et al. (Hayden) discloses an apparatus for accelerating and decelerating a strip of material (Abstract). Hayden discloses that the device comprises of drum (20) for transporting a continuous web (28); an eccentric accelerator (i.e., movable member) (18) disposed upstream of the drum for feeding the continuous web to the drum, said member capable of moving to various positions according to the change of the velocity of the web; and a cutter (22) for cutting the web (28) on the drum (20) (Fig. 1; column 3, line 58- column 4 line 14).

Method/intended use limitations in apparatus claims are given patentable weight to the extent that the apparatus is capable of performing said method limitations. Here, the apparatus of Hayden et al. would be capable of changing the circumferential velocity

Art Unit: 1791

of the drum periodically at least once per one rotation of the drum; the movable member would be capable of moving according to the change in the circumferential velocity of the drum; and the apparatus would be capable of transporting the continuous web at a velocity equal to that of the circumferential velocity of the drum. Also, it is the position of the Examiner that most motors utilized for rotating circumferential drums are capable of accelerating the drum from a stop position and decelerating the drum to a stop.

Hayden fails to disclose whether a process device in the form of a welder may be included for processing the web (28) on the drum (20). It is the position of the Examiner that including a processing device, such as a welder, to work on a web of material as it passes on a transport drum is well known in the art of diaper making and would have been obvious to one of ordinary skill at the time of the invention. McCabe discloses a velocity changing apparatus for processing webs of material, such as webs for making diapers (Abstract) wherein ultrasonic welders (14) work on a web of material (12) as it passes over a transport drum (18) (Fig. 2; column 3, lines 64 – column 4, line 15). McCabe discloses that the welder is used to bond multiple layers of material together (Id.). It would have been obvious for one of ordinary skill at the time of the invention to include an ultrasonic welder for bonding layers of material together, such as the welder of McCabe, in the device of Hayden because such a modification would have been within his technical grasp.

As to claim 4, the apparatus of claim 3 is taught as seen above. Method limitations in apparatus claims are given patentable weight to the extent that the apparatus is capable of performing said method limitations. Here, the apparatus of the

Art Unit: 1791

above references as combined would be capable of lowering the speed of the web so that the processing device could apply an ultrasonic weld to the web.

As to claim 5, the apparatus of claim 4 is taught as seen above. Method limitations in apparatus claims are given patentable weight to the extent that the apparatus is capable of performing said method limitations. Here, the apparatus of the above references as combined would be capable of lowering the speed of the web so that the cutter (22) may cut the web (12).

As to claim 6, the apparatus of claim 5 is taught as seen above. Hayden discloses that the discrete pieces cut from the web are received by a receiving device (36) (Fig. 1). Method limitations in apparatus claims are given patentable weight to the extent that the apparatus is capable of performing said method limitations. Here, the apparatus of the above references as combined would be capable of operating when the velocity of the receiving device (36) is greater than the velocity of the continuous web (28).

5. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayden et al. (US 5407513) in view of McCabe (US 6596108), or in the alternative in view of Armelin (US 4863086).

Claims 7-9 are rejected for the same reasons as claim 1 was rejected above in view of Hayden et al. Hayden fails to disclose whether the eccentric accelerator (18) may comprise of a movable roller fixed to a movable arm instead of a roller (50) mounted on a disc-shaped carrier (48) (Fig. 1). It is the position of the Examiner that dancer rollers on movable arms are well known in the art, as well as utilizing said rollers

Art Unit: 1791

for controlling the acceleration/deceleration of a web material for processing. McCabe discloses the use of such dancer rollers (34, 36) mounted on movable arms; the arms pivot the rollers moving them closer and away from the drum (18) so as to control and vary the velocity of web material for processing (Fig. 1; column 4, lines 15-25). Armelin discloses a mechanism for accelerating/decelerating a web of material comprising of a dancer roller (7) on a movable arm (8) (Fig. 4; column 4, lines 20-47). Armelin discloses that the dancer roller is pivoted towards and away from the web processing area (2) so as to vary the velocity of the web during processing (*Id.*). It would have been obvious for one of ordinary skill in the art to substitute the accelerator mechanism of Hayden with a well known mechanism for accelerating/decelerating a web of material, such as the dancer roller on a pivotable arm as disclosed by Armelin and McCabe, because such a substitution would have been well within his technical grasp.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the dancer roller mechanism of McCabe or Armelin in the apparatus taught by Hayden et al. because one of ordinary skill in the art would have been able to carry out such a substitution to achieve the predictable result of having a mechanism to accelerate/decelerate the web of material as needed. "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007).

Response to Arguments

6. Applicant's arguments filed December 14, 2009 have been fully considered but they are not persuasive. Examiner will address those arguments pertinent to the above claim rejections.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues on pages 5 and 6 that neither Hayden nor McCabe teach or disclose changing the circumferential velocity of the drum, and therefore fails to anticipate the apparatus of claim 1. As stated in the rejection above, method/intended use limitations in apparatus claims are given patentable weight to the extent that the apparatus is capable of performing said method limitations. Here, the apparatus of Hayden et al. would be capable of changing the circumferential velocity of the drum periodically at least once per one rotation of the drum; the movable member would be capable of moving according to the change in the circumferential velocity of the drum; and the apparatus would be capable of transporting the continuous web at a velocity equal to that of the circumferential velocity of the drum.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 1791

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER C. CAILLOUET whose telephone number is (571)270-3968. The examiner can normally be reached on Monday - Thursday; 9:30am-4:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Phillip Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1791

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher C Caillouet/
Examiner, Art Unit 1791

/Mark A Osele/
Primary Examiner, Art Unit 1791
March 3, 2010